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Consideration of reports submitted by States parties under article 40 of the Covenant

List of issues in relation to the fourth periodic report of Algeria*, **

Addendum

Replies of Algeria to the list of issues

[Date received: 14 March 2018]

* The present document is being issued without formal editing.
** Annexes can be consulted in the files of the secretariat. They are also available from the website of the Human Rights Committee.

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Reply to the issues raised in paragraph 1

1. The human rights legal framework of Algeria is rooted in the Constitution, international treaties and legislation. Article 150 of the Constitution stipulates that ratified treaties take precedence over the law.

2. With regard to the practical application of the Covenant in the national legal order, the fact that the national legal system is fully aligned with the Covenant means that the courts often refer to domestic legislation in their rulings. Between 2015 and 2017, the provisions of the Covenant were invoked in the decisions of Algerian courts on six occasions.

3. The court cases in which the Covenant was invoked include the following:

- A judgment of the Supreme Court on the applicability of article 11 of the Covenant with regard to imprisonment for inability to fulfil a contractual obligation.
- A judgment of the Tribunal of Constantine and a judgment of the Court of Constantine relating to the discontinuation of criminal proceedings, pursuant to article 14 (7) concerning the binding nature of judgments.
- A judgment of the Tribunal of Constantine relating to article 14 (2) concerning the presumption of innocence.
- A judgment of the Court of Constantine on the application of article 14 of the Covenant.
- A judgment of the Court of Constantine regarding the discontinuation of criminal proceedings pursuant to article 15 (1).

4. With regard to the measures taken to raise awareness of the Covenant among public officials and in schools, the Government provides in-service training for the judiciary and law enforcement personnel (see annex II).

5. Schools provide basic education on human rights treaties through the curricula and textbooks for a number of subjects, including civics, Islamic education, languages, history and geography.

6. The texts of the international and regional human rights treaties ratified by Algeria can be consulted on the website of the Ministry of Justice (www.mjustice.dz). A compendium of the principal international legal instruments is available free of charge to judges.

Reply to the issues raised in paragraph 2

7. The invasion and illegal occupation of the former Spanish colony of Western Sahara by Morocco in 1975 undermined the exercise of the right to self-determination by the territory's inhabitants and gave rise to a humanitarian tragedy as Saharan civilians fled to Algeria.

8. Algeria stands in solidarity with the Saharan people and their cause. In keeping with its tradition of hospitality, the country has provided asylum to this long-suffering population. Under an agreement with the authorities of the liberation movement led by the Frente Polisario, Algeria has delegated to them the arrangements for the internal organization of refugee camps, given the sociological, cultural and other specificities of the Saharan population.

9. The responsibilities delegated also cover the education and health-care systems and the management of personal and legal status within the refugee camps.

Reply to the issues raised in paragraph 3

10. The National Human Rights Council referred to in articles 198 and 199 of the Constitution was established pursuant to Act No. 16-13 of 3 November 2016. The Act sets out the composition of the Council and the process of appointing its members, as well as its structure and operation. The Council has been fully operational since 9 March 2017.

11. The Council is a permanent and independent constitutional body. It is not subject to any authority and does not receive instructions from the Government. The plenary assembly of the Council is sovereign; it adopts its own budget and programme of work and recruits its own staff.

12. The membership of the Council represents various segments of society. Women's participation is strong, accounting for 16 of the Council's 38 members. The Council is currently headed by a woman.

13. The Council is administratively and financially independent and adopts and manages its own budget, pursuant to the provisions of article 198 (1).

14. The Council is competent to receive complaints. Since its establishment it has received 717 complaints, in addition to the 131 it inherited from the National Advisory Commission for the Promotion and Protection of Human Rights. The complaints fall into the following categories:

- Economic, social, cultural and environmental rights (342)
- Legal and judicial affairs (239)
- Civil and political rights (228)
- The status of women, children and vulnerable persons (39)

15. Measures were put in place to facilitate the transfer of tasks from the Commission to the Council, including with regard to the follow-up afforded both to complaints and to observations addressed to the Government by treaty bodies.

16. The roles of the committees for human rights issues that report to the two chambers of Parliament are as follows:

- Within the Council of the Nation (the Senate), a committee on administrative and legal affairs, human rights, local organization, land use and territorial division covers issues relating to the legal regime governing human rights and personal status.
- Within the National People's Congress, a committee on legal and administrative affairs and freedoms covers issues relating to freedoms, human rights and personal status.

17. The National Human Rights Commission and the two committees work together in considering draft legislation and carrying out information, communications and awareness-raising activities to promote human rights.

Reply to the issues raised in paragraph 4

18. The Government cooperates with the Committee in good faith regarding communications submitted under the Optional Protocol. The Government considers that it has provided the relevant information on the allegations brought to its attention, in particular those related to the national tragedy involving "disappearances" in the 1990s.

19. The Government submitted comprehensive notes on all the allegations, in which it described the backdrop of terrorist activity against civilians and State forces during the period when the alleged enforced disappearances occurred.

20. The Government does not share the Views adopted by the Committee for two reasons. First, the Committee does not appear to take into account the depth and complexity of the security crisis that occurred in Algeria as a result of terrorist activity. Second, the

wounds left by the Algerian people's suffering can be healed only through the implementation of a policy that they themselves have endorsed, one that is aimed at achieving national harmony and reconciliation and designed to put the country back on the road to peace.

21. The alleged cases of harassment referred to during the period in question are unconnected to the activities of individuals or their status as the dependents of victims. Rather, they relate to ordinary crimes for which any Algerian citizen can be prosecuted.

Reply to the issues raised in paragraph 5

22. The implementation of the Charter for Peace and National Reconciliation was discussed at length during the Committee's interactive dialogue with the Algerian delegation during the Committee's consideration of the country's previous report in 2007.

23. As was noted at that time, the Charter states that the courts can try criminal cases, hear any allegations of human rights violations and deal with them appropriately, except where the alleged perpetrators were law enforcement officials or persons engaged in counter-terrorism operations acting in the performance of their duties.

24. Individuals therefore have the right of appeal if the alleged acts were unrelated to public order, security or counter-terrorism operations.

25. The delegation stressed that, under Algerian law, it was not lawful to pardon or to commute the sentences of persons convicted of rape, torture, bombings in public places, premeditated murder or abduction, or to terminate the prosecution of persons charged with those offences.

26. The Government is unaware of any cases involving the possible prosecution, under article 46 of the Charter, of citizens resident in Algeria or abroad. The Committee has not provided the names of any individuals in that connection.

Reply to the issues raised in paragraph 6

27. In the absence of a universally accepted definition of terrorism, the Algerian parliament has adopted a definition based on the laws of a number of other countries.

28. According to the Algerian parliament, for an act to be classified as a terrorist offence, the perpetrator must have committed a particular act (for example, premeditated murder) for a particular purpose (for example, to undermine institutional stability). The objective of the perpetrator and the means used to achieve that objective are therefore taken into consideration.

29. The law defines as a criminal offence any action aimed at spreading terror among the civilian population or undermining the right to life, fundamental freedoms, State security, territorial integrity, or the stability and normal functioning of institutions.

30. The State party is unaware of any documented cases involving the possible use of terrorism legislation in cases involving alleged human rights defenders and journalists. The initiation of such proceedings is ordered and supervised by the public prosecutor's office and regulated by the Code of Criminal Procedure.

31. In the last five years, 1,264 prosecutions were initiated under article 87 bis 3 of the Criminal Code. Of these, 315 resulted in convictions and 1,112 in acquittals.

32. With regard to the rules to ensure the prevention and punishment of abusive actions by law enforcement officers, the Algerian Criminal Code defines as a criminal offence improper and abusive actions by law enforcement officers and provides for harsh criminal penalties for those found guilty of such actions.

33. By way of illustration, the following measures have been taken:

- The improved internal monitoring of security institutions (police and gendarmerie) through inspections and the establishment of a national hotline.

- The continuous monitoring of the activities of those members of the security services who have been classified as criminal police officers by the public prosecutor's office through recent legislative amendments that provide for a new mechanism for the granting of powers to police units (police, gendarmerie, military security service). These police units must keep prosecutors and State prosecutors informed of their activities.
- Consultations with the public for the consideration of grievances (see table 21).
- The creation of an email address (mjustice.dz, see link), by the Ministry of Justice, on its website, which any member of the public can use to submit complaints, accusations or other forms of communication that are processed by a permanent unit specifically set up for this task (see table 22).
- The use, by public prosecutor's offices, of press articles and information, made available via any medium, that report instances in which law enforcement officials have allegedly acted outside their authority in the conduct of their duties, and the automatic opening of preliminary investigations by the public prosecutor's offices in relation thereto.

Reply to the issues raised in paragraph 7

34. Key measures undertaken to combat discrimination include:

- The recognition in the Constitution of the principle of equality for all and the prohibition of any form of discrimination, regardless of the cause (birth, race, sex, opinion or any personal or social status or circumstance);
- The prohibition of all forms of discrimination among citizens in various pieces of legislation (the Electoral Code, the Civil Code, the Criminal Code, the Code of Criminal Procedure, the Information Code, the Health Code and the Commercial Code);
- Access to justice based on the principle of equality for all;
- The recognition of the equality of citizens in the area of economic rights (the right to work, equal pay, social security, etc.);
- The diversification of activities to promote and protect human rights within a framework of respect for difference, tolerance and fraternity among peoples.

35. In order to further combat discrimination, the Government adopted Act No. 14-01 of 4 February 2014, thereby amending articles 295 bis 1 and 295 bis 2 of the Criminal Code. For statistics relating to racial discrimination during the reporting period, see table 1.

Reply to the issues raised in paragraph 8

36. Algeria is a nation State that operates on the basis of the principle of citizenship. There is no multiculturalist approach, as there may be in countries that, because of their histories, have encouraged or fostered immigration, giving rise to diverse communities. Algeria has a rich heritage founded on the three pillars of Islam, Arabism and Amazighness. The Algerian people are the product of several centuries of intermingling that various invasions have sought to divide along ethnic, religious or linguistic lines.

37. It is because Algerian society rejects sexual relations between persons of the same sex that such relations are a criminal offence in national law. This provision is based on moral, religious, philosophical and sociological considerations to which Algerian society is deeply committed and which are shared by all its members. The Government of Algeria does not intend to repeal the legislation criminalizing such practices.

Reply to the issues raised in paragraph 9

38. The constitutional principles underpinning labour legislation are based on non-discrimination between citizens. Article 17 of Act No. 90-11 on labour relations enshrines the constitutional principle of the equality of citizens.

39. In accordance with this Act, female employees have the same right to respect for their physical and mental integrity and dignity as their male colleagues (art. 6). Paragraph 3 of this Act also guarantees female employees protection against any discrimination in recruitment as well as the right to receive vocational training and to be promoted (para. 4).

40. The ordinance of 15 July 2006 on general civil service regulations (art. 27) stipulates that civil servants may not be discriminated against on the grounds of their opinions, sex, origin or any other personal or social status. Article 74 establishes that the recruitment of civil servants is subject to the principle of equal access to public employment.

41. Labour legislation is based on the 59 international labour conventions that the Government of Algeria has ratified, including the 8 identified as fundamental, such as the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

42. The wages paid by employers in Algeria, whether in the public or the private sector, is established by the place of work and is not determined by the sex of the worker.

43. No discrimination against women is allowed, either in law or in practice. This principle is enshrined in the Constitution in a number of ways:

- All citizens are equal before the law, without distinction on the ground of birth, race, sex, opinion or any other personal or social condition status or circumstance.
- The purpose of institutions is to ensure the equal rights and duties of all citizens, male and female, by removing the obstacles that hamper individual self-fulfilment or impede the effective participation of all in political, economic, social and cultural life.
- The State will strive to promote the political rights of women by increasing their opportunities for access to representation in elected assemblies.
- The State will strive to promote gender parity in the labour market. It encourages the promotion of women to positions of responsibility in public institutions and agencies as well as in private companies.

44. Women's participation in the labour market has improved significantly thanks to the employment policy adopted by the Government in 2008. Since then, the presence of women in the labour market has steadily risen: the number of working women increased from 90,500 (5.2 per cent of the working population) in 1962 to 1,965,000 (18.9 per cent) in September 2017 (survey carried out by the National Office of Statistics).

45. Article 341 bis of the Criminal Code provides for a term of imprisonment of 2 months to 1 year and a fine of between 50,000 and 100,000 Algerian dinars for those found guilty of harassment of women in the workplace. The penalty is doubled for repeat offences.

46. The Government of Algeria has taken a series of constitutional, legislative and practical measures to promote the participation of women in the public sphere. These include the implementation of article 31 bis of the revised Constitution of 2008, through the Organic Act of 12 January 2012, which establishes the ways in which women can achieve representation in elected assemblies. This has led to a significant increase in the number of women in elected assemblies at the municipal level (from 105 in 2007 to 4,142 in 2017), in *wilayas* (governorates) (from 133 in 2007 to 586 in 2017) and in parliament (from 30 in 2007 to 121 in 2017).

47. The Organic Act on Political Parties tasks political parties with promoting the political rights of women and introduces the following new provisions, which are intended to increase the presence and visibility of women in political parties:

- A provision requiring that women represent a certain proportion of the founding members of new political parties.
- A provision requiring that women represent a certain proportion of the delegates at party conferences.
- A provision stating that the governing bodies of political parties should include a certain proportion of women and that this requirement should be stipulated in the party statutes.

48. With these measures, Algeria has joined the 30 countries that have met the commitments set out in the Beijing Platform for Action and the Millennium Development Goals.

49. Since the status of women in the Family Code was reviewed in 2005, the rights of women have been strengthened through the introduction of the following amendments:

- Marriage is entered into as a consensual contract requiring the consent of both parties.
- A marriage is declared void if the consent of one of the spouses is invalidated.
- The legal age of marriage is 19 years for both women and men.
- A woman enters into marriage in the presence of her guardian (*wali*), who may be any person of her choice.
- The *wali* cannot force a woman into a marriage or oppose her choice.
- The spouses have the same rights and the same obligations, as set out in the Family Code.
- The spouses must consult each other with regard to the management of family affairs.

50. Strict conditions on polygamy have been imposed in the Family Code, article 8 of which stipulates that this practice is possible only:

- On the authorization of a judge;
- With the prior consent of the previous and future wives;
- If the husband's reasons are examined and found to be justified;
- If the terms of equality between the spouses, and the conditions necessary for married life, are met and ensured by the husband (separate housing, work).

51. A wife may sue for divorce on the ground that the clauses of the marriage contract have been violated or by the procedure known as *khula*. In the event of divorce, the right of guardianship of the children in the mother's care is granted to the mother. In the event of divorce, the law requires the husband to provide decent housing or rental payments for minor children of whom the mother has been granted custody.

Reply to the issues raised in paragraph 10

52. The amendments to the Criminal Code set out in paragraph 103 of the report represent considerable progress towards the eradication of violence in all its forms and give victims the legal means to access justice through legal aid granted to them by law (see the statistics on legal aid in tables 5 and 6).

53. In order to safeguard the dignity and meet the material needs of divorced women living in difficult circumstances, new provisions have been introduced under which material and financial assistance in the form of alimony will be paid out of a special fund established under Act No. 15-01 of 4 January 2015.

54. The notion of pardon adopted by the Algerian parliament in the area of domestic violence is valid only for acts classified as misdemeanours and is invoked only in order to

preserve family cohesion. A pardon by the victim is not applicable if the act is of a criminal nature, such as rape.

55. With regard to measures for encouraging women victims to overcome their fear, the Code of Criminal Procedure provides for protective measures when there is a serious threat to the lives of victims, their physical integrity, that of their family members or relatives, or their essential interests.

56. A national strategy to combat violence against women was developed in 2007. The implementation of the strategy has been entrusted to a national commission composed of representatives of directly concerned ministries, associations active in the area of combating violence against women, university lecturers and experts.

57. Care for women who are victims of violence and/or in distress is provided by the national shelters for girls and women victims of violence. Two more such shelters are under construction. These centres provide the following:

- Shelter, accommodation and medical, social and psychological care by the competent health services to women admitted to the centres who are victims of any form of violence or in difficult circumstances
- The protection of women from social risks
- Diagnosis of psychological problems affecting women admitted to the centres so that they can be provided with comprehensive care
- The reconciliation of women with their families or social reintegration
- The advancement of women through financial autonomy
- The provision of initial training leading to a diploma

58. In addition to the two above-mentioned centres, the Government has a number of temporary shelters, including five Diar-Rahma institutions (in Algiers, Constantine, Oran, Skikda and Ouargla) and six branches. Counselling centres and shelters run by associations are in operation throughout the year. The following resources are also available:

- A hotline (1527)
- Family mediation and social spaces
- A family consultation mechanism

59. With regard to efforts to raise awareness of, and encourage, creative works addressing the prevention of violence, a national award for combating violence against women has been established to encourage the public to produce scientific and cultural works on this subject.

60. In accordance with legal procedures that require a specific approach to be taken when dealing with minors, the security services have established special brigades for the protection of minors. These are community-based counselling bodies intended to prevent any act of delinquency committed by or against minors of either sex.

61. See table 2 for data on court cases related to violence against women.

Reply to the issues raised in paragraph 11

62. The implementation of the Charter for Peace and National Reconciliation has made it possible to find solutions to the painful problem of the alleged cases of disappearance that occurred during the national tragedy.

63. The implementation in question came about as a result of the widespread voluntary participation of families of alleged missing persons, who have received appropriate compensation and social care.

64. For some years now, Algeria has engaged in a dialogue with the Working Group on Enforced or Involuntary Disappearances in order to definitively clear up alleged cases of disappearance.

65. In this connection, the Government issued an invitation to the Working Group in December 2013. The practical arrangements for the Working Group's visit are under consideration.

Reply to the issues raised in paragraph 12

66. Algeria has made significant progress on the issue of the death penalty by ceasing to apply that penalty to a significant number of offences. It remains in force only for violent crimes, terrorism and serious cases related to State security, as detailed in the report.

67. Article 293 bis 1 of the Criminal Code defines as a criminal offence the abduction of minors under the age of 18. Its first paragraph provides for a penalty of life imprisonment while the second provides for the death penalty in cases where the act results in the victim's death.

68. The moratorium on the death penalty, which has been in force since 1993, is being upheld.

69. A total of 269 convicted persons have been sentenced to death, without the right to appeal, in recent years. In accordance with the moratorium, the sentences handed down to these persons will be commuted to life imprisonment.

Reply to the issues raised in paragraph 13

70. Reproductive health and family planning are an integral part of national health policy and an essential aspect of national population and development policy.

71. The organizational chart of the Ministry of Health includes a central body responsible for family planning and a National Committee on Reproductive Health and Family Planning composed of medical practitioners and representatives of associations working in those areas. The Committee has helped to standardize activities related to reproductive health, contraception, the revision and implementation of ongoing training programmes and the identification of priority reproductive health subprogrammes. At the decentralized level, a department or office has been responsible for this area since 1997.

72. Public awareness of contraception is near universal, as shown by the various surveys carried out to date. The marked increase in awareness of contraceptive methods is linked to the expansion in family planning services around the country, as well as to the actions taken to inform and raise the awareness of the general public and the inclusion, in education and literacy programmes, of topics related to population issues, such as reproductive health and family planning. Consequently, ignorance of contraception no longer constitutes an obstacle to family planning.

73. In Algeria, the national family planning programme is based on the principle of free, voluntary and informed access for couples.

74. Article 72 of Act No. 85-05 provides that abortion performed for therapeutic purposes is an indispensable means of saving a mother's life when it is in danger or of safeguarding her mental and physiological well-being when it is seriously threatened. Abortions are performed by doctors in specialized facilities following a joint medical examination with a specialist physician.

75. The State party has no reliable source by which to estimate the number of illegal abortions, which are prohibited by law.

76. The maternal mortality rate in Algeria was estimated to be 57.7 per 100,000 live births in 2016 compared to 117 per 100,000 in 1999 and 230 per 100,000 in 1989. With regard to maternal mortality linked to abortion, the system for the mandatory registration of

maternal deaths, supported by the routine auditing of maternal deaths, has not recorded any cases of deaths following an abortion since the system was launched in July 2013.

77. The State party does not intend to amend its legislation to provide for additional exceptions to the prohibition of abortion or to decriminalize abortion.

Reply to the issues raised in paragraph 14

78. Violations of physical integrity are criminalized under the Constitution. The use of torture and other ill-treatment to obtain confessions is a serious crime that is punishable by 10 to 20 years' imprisonment (Criminal Code, arts. 263 bis, 263 ter and 263 quater).

79. The infliction of physical torture on a person who has been kidnapped, arrested, detained or falsely imprisoned is punishable by life imprisonment (Criminal Code, art. 293).

80. Major legislative changes have been introduced to strengthen and improve the systems that are in place to prevent ill-treatment during arrests. Relevant changes that are worth noting are those set forth in the new Constitution and in Decree No. 15-02 of 23 July 2015 and Decree No. 17-07 of 27 March 2017, amending and supplementing the Code of Criminal Procedure.

81. As regards the powers of the police forces attached to the Military Security Services, under article 15 bis of the Code of Criminal Procedure, as amended by Decree No. 17-07, the mandate of these forces is now limited to dealing with State security offences, as defined in the Criminal Code.

82. In terms of the complaint mechanisms available to victims of ill-treatment, the courts are required to process complaints and to launch investigations by informing the Ministry of Justice or a special office that is responsible for dealing with complaints of human rights violations committed by the security services in the performance of their duties.

83. As regards the number of law enforcement officials prosecuted for offences of this kind, there were 258 prosecutions for acts of violence, 6 prosecutions for torture and 33 prosecutions for abuse of authority over the period in question.

84. The fourth paragraph of article 52 of the Code of Criminal Procedure, as amended on 23 July 2015, stipulates that individuals may be held in custody only in premises intended for that purpose, known to the public prosecutor's office and consistent with the principle of human dignity. These places are subject to the supervision of the competent civil or military public prosecutors and are regularly inspected by them.

Reply to the issues raised in paragraph 15

85. The use of torture to obtain a confession is a serious offence punishable by 10 to 20 years' imprisonment. Once torture has been proved and the perpetrator identified, the confession obtained by violence cannot be admitted in the victim's trial.

86. It should be noted that the provisions of the Code of Criminal Procedure regarding evidence stipulate that the evaluation of a confession, like any piece of evidence, is a matter for the judge and that, by law, records and reports alleging the commission of indictable offences have informational value only.

87. Thanks to the scientific and technological resources now available to the security services, the use of confessions as evidence is increasingly rare.

Reply to the issues raised in paragraph 16

88. Any detention that violates the relevant provisions of the Constitution and the procedures established by law constitutes a serious breach of the law, which provides for the punishment of:

- Any civil servant who commits or orders the commission of an arbitrary act or an act that infringes upon the personal freedom or civic rights of one or several persons.
- Civil servants, law enforcement officers and public officials responsible for policing or for criminal investigation who refuse or neglect to respond to a claim of illegal and arbitrary detention.
- Any re-education officer in a prison or detention facility who admits a prisoner without a lawful committal order or refuses, without court approval, to present the prisoner to the authorities or to authorized visitors or even to hand over the relevant detention records to those authorized persons.

89. The general principle that "all damage must be remedied" may be invoked if it has been established in a final judgment that a person has suffered a miscarriage of justice. The State has a duty to provide reparation and compensation.

Reply to the issues raised in paragraph 17

90. Article 59 of the Constitution of 7 February 2016 states that "any pursuit, arrest or detention of a person must be conducted in accordance with the conditions and procedures established by law".

91. Under legislation adopted on 23 July 2015, a new provision on pretrial detention was added to the Code of Criminal Procedure to prevent examining judges from imposing pretrial detention on a person who has committed an offence that is punishable by no more than 3 years' imprisonment, unless the person has a criminal record.

92. If there is significant and consistent evidence that justifies bringing charges against a person, the criminal police may hold that person in custody for 48 hours before he or she is brought before a judge. This period may be extended under article 51 of the Code of Criminal Procedure, subject to the written authorization of the public prosecutor. Exceptional extensions of this kind are justified by the nature of the offence: such cases often fall into the category of organized, sometimes even transnational, crime, where time is needed to trace and dismantle networks that can be highly complex.

93. In 2015, several measures to strengthen the rights of persons in police custody were taken by the Algerian parliament. These measures are described below.

94. The following improvements were made through amendments to the Code of Criminal Procedure under Ordinance No. 15-02 of 23 July 2015:

- Interpreter services are available for foreign (and even Algerian) nationals in police custody.
- Persons in police custody have the right to make immediate contact with a family member — ascendant, descendant, sibling or spouse — of their choice.
- Persons in police custody may contact their lawyers by telephone and receive visits from them in a secure place where the interview can be held in secrecy in the presence of a criminal investigation officer.
- Foreign persons in custody have the right to contact their employer and/or the diplomatic mission or consulate of the State of which they are nationals.

95. The Child Protection Act of 15 July 2015 introduced the following changes:

- A psychologist may be present at hearings involving children.
- Children under 13 years of age who are suspected of having committed or having attempted to commit an offence cannot be placed in police custody.
- Children cannot be held in police custody for more than 24 hours.
- Children placed in police custody must, at the start and end of their custody period, be examined by a physician approved by the court who is appointed by their legal representative or, if necessary, by a criminal investigation officer.

- Medical certificates must be placed in the case file, failing which the proceedings are declared invalid.
- Premises where children are held in police custody must be appropriate and consistent with the principle of human dignity and the particular characteristics and needs of the child concerned. Such premises must also be separate from facilities intended for adults.
- The public prosecutor and the juvenile judge who have territorial jurisdiction must visit the premises used for police custody on a regular basis and not less than once a month.

96. In addition to the information provided in the periodic report, the following statistics on pretrial detention for the period 2013–2017 are available:

- Number of pretrial detainees: 45,500
- Pretrial detainees as a proportion of the total prison population: 10.93 per cent on average

97. The provisions that allow for the extension of the police custody period in cases relating to terrorism cannot, under any circumstances, be applied to other offences; extension of custody is subject to monitoring by the public prosecutor, who is required to investigate any misuse of this measure.

98. Penalties are imposed on any law enforcement official who fails to comply with article 51 bis of the Code of Criminal Procedure on visits from relatives and lawyers and consultation with doctors (see table No. 19 of the annex, on visits to police custody facilities).

Reply to the issues raised in paragraph 18

99. The provisions of article 175 bis of the Criminal Code are in no way contradictory to article 12 of the Covenant, since the latter allows for restrictions on freedom of movement, provided they are necessary to protect national security, public order, public health or morals or the rights and freedoms of others.

100. Article 175 prohibits any person from leaving the territory illegally by using forged documents, a false identity or any other fraudulent means at a border crossing. It criminalizes the act of leaving the country without passing through known and recognized border crossings.

101. For the number of convictions handed down on the basis of article 175 bis of the Criminal Code, see table No. 4 of the annex.

Reply to the issues raised in paragraph 19

102. Algeria ratified the Convention relating to the Status of Refugees of 28 July 1951 through Decree No. 63-274 of 25 July 1963, which sets out the procedures for the implementation of the Convention.

103. Expulsion orders may be enforced against refugees only in accordance with the conditions and procedures set forth in article 220 of the Convention. A bill on asylum is being drafted.

104. As regards the expulsion of illegal migrants, it should be noted that their presence in national territory is tolerated by the authorities provided they do not engage in criminal activities such as forgery of documents or money, human trafficking and child begging. Any activity that breaches order or security places such migrants at risk of being expulsed once their identity has been checked with the consular authorities of their country of origin.

Reply to the issues raised in paragraph 20

105. Articles 56 and 57 of the Constitution of 7 February 2016 confirm the principle of the presumption of innocence, the right to a fair trial and the right to legal aid.

106. Act No. 09-02 of 25 February 2009 on legal aid introduced new provisions granting legal aid before ordinary and administrative courts and for discretionary and conservatory acts to the following persons:

- Individuals and non-profit legal entities without sufficient resources
- Foreign nationals in an irregular situation without sufficient resources
- In exceptional circumstances, other persons, who do not meet the requirements of this Act

107. Under this Act, a lawyer is appointed by the court to represent the following persons:

- Minors brought before criminal courts
- Defendants brought before criminal courts
- Defendants with a disability

108. Legal aid is also automatically granted to the following persons:

- Widows
- Single daughters of the war dead
- Persons disabled during military service
- Minors subject to legal proceedings
- Mothers in child custody cases
- Workers in occupational accident cases
- Victims of human trafficking and organ trafficking
- Victims of migrant smuggling
- Victims of terrorism and persons with disabilities

109. Considerable efforts have been made to modernize the justice sector and facilitate access to judicial services by computerizing all such services and setting up an automated system for the management of judicial affairs, a one-stop service for each court, an intranet connection between all courts and an online platform through which the public can access various judicial services, obtain information and contact the Ministry of Justice and the courts.

Reply to the issues raised in paragraph 21

110. When the Constitution was amended in 2016, new provisions that strengthen the independence of judges were added, namely articles 166 and 176. The principle of judicial independence had already been enshrined in Organic Act No. 04-11 of 6 September 2004 on the mandate and functioning of the judiciary.

111. This Act will be amended shortly to bring it into line with the new Constitution.

112. The large-scale, systematic introduction and use of information and communications technology as part of the modernization of the justice system has helped to improve the way in which the system operates when it comes to handing down judgments or providing any public service for which the justice sector is responsible (criminal records, certificates of nationality, civil status records).

Reply to the issues raised in paragraph 22

113. Article 42 of the Constitution states: "Freedom of conscience and freedom of opinion are inviolable. Freedom of worship shall be guaranteed, subject to the law."

114. Freedom to practise Islam is regulated by Executive Decree No. 91-81 of 23 March 1991 on mosques, as amended by Executive Decree No. 13-377 of 9 November 2013.

115. The practice of religions other than Islam is governed by regulations set out in Ordinance No. 06-03 of 28 February 2006; those regulations are based on the provisions that apply to Islam.

116. The restrictions that apply to Islam, which is the religion of the vast majority of Algerians, as well as those that apply to other faiths, are consistent with article 18 of the Covenant.

117. The right of States to intervene, in accordance with the law, in order to protect public order or the fundamental freedoms of others is explicitly recognized in international law; in Algeria, all religious practices are regulated in accordance with that principle.

118. While individuals may express their religious beliefs freely, collective worship is subject to the following conditions:

- Organizers must prove that they have authorization from the relevant religious association.
- Worship must take place in a known, appropriate and declared location.
- The preacher must be qualified and accredited by the highest national authority for the religion in question (the Ministry of Religious Affairs and Endowments (*waqfs*) or the Church).

119. All religious festivals, whether Muslim, Christian or Jewish, are celebrated in Algeria in order to promote the equal treatment of all religions.

120. Lastly, religious associations of faiths other than Islam receive State support and protection on an equal basis with Islamic associations and religious ministers of Algerian nationality are remunerated by the State, just like imams. The State also contributes to the maintenance of places of worship and cemeteries.

121. The Algerian citizens professing to be Ahmadis are being prosecuted for ordinary offences, not for their religious beliefs. In Algeria, there are no prisoners of conscience and no one is subjected to harassment on the basis of religious affiliation.

122. These are not cases of judicial persecution or restriction of liberty, but rather prosecutions under ordinary law that bear no relation to the freedom of religion that is enshrined in the Constitution.

123. Under Algerian law, an Algerian who converts from Islam to another religion is not liable to any penalties whatsoever.

Reply to the issues raised in paragraph 23

124. Act No. 90-07 of 3 April 1990 on information has been repealed by Organic Act No. 12-05. Article 2 of the Organic Act states explicitly that information-related activities may be exercised freely; the Act is therefore compatible with article 19 of the Covenant.

125. Article 3 of the Organic Act stipulates that, for the purposes of the Act, information-related activities should be understood to mean the publication or dissemination of information such as news, messages, opinions, ideas or knowledge, aimed at the general public or a particular audience. This definition refers to the freedom to publish, produce and disseminate any news, information, messages, opinions or knowledge that are intended for the general public or a particular audience.

126. In addition, article 3 of the Organic Act states that information may be disseminated through any media, including in written form or through audiovisual, electronic or sound

media. This provision is consistent with article 19 (2) of the Covenant, which refers to the freedom to impart information through any media.

127. Article 2 of the Organic Act also establishes some restrictions based on duty and responsibility, pursuant to article 19 of the Covenant. These include the need to respect:

- Individuals and their rights
- The right to information
- The requirements of public order, security and national defence
- Individual and collective freedoms
- Freedom of belief and religion
- The Constitution and national law
- The values of society
- The confidentiality of judicial investigations

128. Publishers of periodicals are required to declare and provide proof of the source of their capital and operating funding, in order to ensure financial transparency and traceability. This requirement also helps to prevent mergers of publications and press organizations and thus protects the principle of pluralism of schools of thought and opinion, which is enshrined in the eleventh paragraph of article 2 of the Organic Act.

129. Although article 84 introduces restrictions that might appear to limit the right of access to sources of information, those restrictions are nevertheless compatible with article 19 of the Covenant, for they are essentially based on those set out in article 2 of the Organic Act, which — as demonstrated above — are consistent with the restrictions authorized under the Covenant.

130. Article 2 of the Organic Act is reinforced by article 92 thereof, which recommends compliance with professional ethical standards in order to protect the right of individuals to receive comprehensive, objective information that is respectful of human rights and does not demonstrate or endorse racism, colonialism, intolerance, violence, plagiarism, libel, defamation or misuse of the prestige associated with the profession.

131. A High Council of Ethics, responsible for drafting and adopting a charter of professional ethics for members of the press, will be established shortly; the ultimate goal of this initiative is to ensure that journalism becomes self-regulated, since the Council will be exclusively composed of journalists who have been elected by their peers.

132. The applicable penalties are financial in nature and are designed to maintain a balance between freedom of expression and the protection of human rights. They replace the terms of imprisonment that were previously applicable to many offences relating to violations of recognized rights, including:

- The right to be kept informed in a fair and equal manner
- The right to a fair and just trial
- The right of reply
- The right to be protected

133. It should also be noted that the time limit for prosecution of press offences is six months starting from the day on which the offence was committed (Organic Act, art. 124).

134. The High Council of Ethics and the press oversight authority have not yet been set up. They could not be established until all journalists had been identified and issued with professional journalism cards; that process was completed in 2016, so elections will be held shortly to select the members of these two bodies.

135. The national body responsible for preventing and combating offences relating to information and communications technology has been operational since 2015. It was established by article 13 of Act No. 09-04 of 5 August 2009, which lays down specific regulations on the prevention and combating of offences relating to information and

communications technology; its composition, organization and operating procedures are defined in Presidential Decree No. 15-261 of 8 October 2015.

136. This body, which is overseen by the Minister of Justice, is an independent administrative authority with legal personality and financial autonomy; it is made up of judges, criminal investigation officers and police detectives. It has been tasked with producing a plan for preventing and combating crime in the field of information technology and helping to develop a national strategy in that area.

137. Journalists' freedom of expression is protected by the Organic Act on information, in which it is repeatedly stated that information-related activities may be exercised freely (arts. 1, 2, 11, 34 and 72). Articles 82, 83, 84 and 85 of the Organic Act establish the right of access to sources of information, the right of professional secrecy and journalists' copyright.

138. As regards measures taken to establish private media outlets, including television and radio channels, that are free to operate independently, the Algerian Government has conferred on an independent authority — namely, the Audiovisual Regulatory Authority, which has legal personality and financial autonomy, pursuant to article 64 of the Organic Act — the power to grant authorization to natural and legal persons wishing to establish an audiovisual media outlet.

139. Lastly, with respect to the reports that media outlets allegedly critical of the authorities are subject to reprisals, including arbitrary suspension of activities, the law does not provide for the prosecution of media professionals on grounds relating to their work. For that reason and in accordance with the universal principle of *nulla poena sine lege*, the allegations of reprisals or suspension of activities for allegedly critical texts are unfounded and may refer to action taken with respect to offences under ordinary or private law that bears no relation to the status of professional journalists.

140. The judicial statistics requested on the number of complaints registered and prosecutions carried out on the basis of articles 96, 144, 144 bis 2, 146, 296 and 298 of the Criminal Code can be found in tables Nos. 7, 8, 9, 10 and 11 of the annex.

141. The judicial statistics requested on the number of complaints registered and prosecutions carried out on the basis of articles 97, 98 and 100 of the Criminal Code can be found in tables Nos. 12, 13, 14, 15 and 16 of the annex.

Reply to the issues raised in paragraph 24

142. Freedom of assembly and peaceful demonstration is guaranteed in Algeria. The legal framework in this regard has been strengthened by the new Constitution of 7 February 2016.

143. A preliminary bill on freedom of assembly and peaceful demonstration is being prepared. The aim of this bill is to further safeguard, simplify and facilitate the exercise of this freedom, taking into account the relevant recommendations of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the applicable best practices that have been adopted by other legislatures around the world.

144. The exercise of freedom of assembly and peaceful demonstration is regulated by Act No. 28-89 of 31 December 1989, as amended and supplemented by Act No. 19-91 of 2 December 1991. Article 2 of this Act contains a clear definition of a public meeting.

145. Act No. 28-89, as amended and supplemented, provides for freedom of assembly and demonstration, subject to four restrictions, which are set forth in article 9 of the Act: "Participants in any meeting or demonstration must not oppose national values or commit an offence against the symbols of the revolution of 1 November or against public order and morals."

146. These restrictions are compatible with the procedural and substantive conditions set forth in article 21 of the Covenant.

147. Holding a public demonstration without the required authorization or after the event has been prohibited constitutes a violation of this Act. A demonstration of this kind is considered an unlawful assembly and dispersed; those involved are liable to be prosecuted.

148. In this context, for information, no fewer than 303 peaceful demonstrations took place across the country during 2016 and the first quarter of 2017. Over that period, a total of 313 applications for authorization were made, only 10 of which were rejected (3 per cent).

149. This shows that the number of rejected applications is very low compared to the number of authorizations granted. The organizers are notified of the decision, which may be appealed before the administrative court that has territorial jurisdiction.

150. As mentioned in the report, the purpose of the ban on demonstrations in Algiers is not to deprive citizens of this freedom. On the contrary, it was decreed by the public authorities in order to maintain public order and protect the safety, health and peace of mind of the people and, above all, the organizers of demonstrations.

151. It should be noted that some regions of the country are still plagued by the remnants of terrorist groups who threaten, in particular, to carry out terrorist attacks on the capital, Algiers, and other major cities. The main purpose of this measure is therefore to prevent any such attack and to avoid any situation where terrorists might infiltrate large crowds.

152. Nevertheless, despite these risks and challenges, demonstrations and sit-ins are held in Algiers and other cities without the required authorization on a regular basis.

153. There is no ban on peaceful demonstrations in Oran.

154. A code of police ethics has been drawn up for police officers by experts from the Directorate-General of National Security. This code serves as the legal basis for disciplinary and administrative action taken in connection with breaches of police ethics by national security staff. A pocket guide on police ethics, containing simplified explanations of the main articles of the code, has also been produced for all staff of the Directorate-General of National Security, to raise awareness of the rules and principles of police ethics and ensure that they are strictly enforced.

Reply to the issues raised in paragraph 25

155. In Algeria, everyone has the right to freedom of association. This freedom is enshrined in article 41 of the Constitution. The exercise of this freedom is regulated by Act No. 12-06 of 12 January 2012.

156. The new Constitution of 2016 reaffirmed and strengthened this freedom by establishing that it should be enshrined in an organic act. Article 14 of the act in question introduces the concept of participatory democracy at the local level, which will allow civil society to become actively involved in governance.

157. Article 2 of Act No. 12-06 of 12 January 2012 deals with the definition of an association and the framework within which freedom of association may be exercised, setting forth various conditions relating to the object and purpose of associations.

158. It should also be noted that even though the Covenant provides for the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right, Act No. 12-06 on associations does not provide for any general restriction of this kind, which shows how national legislation on associations has evolved.

159. Under article 8 of the Act, when an application is submitted, the authorities are required to assess whether it meets the relevant requirements and to notify the association of its decision within a reasonable time frame, the length of which varies depending on the level at which authorization is sought.

160. Article 30 of the Act regulates the funding of associations by foreign entities, establishing that funding may be provided under a partnership agreement that defines the field of cooperation, the aims of the partnership and the rights and duties of the parties.

161. A prior agreement is required in such instances in order to ensure that the financing is transparent, compatible with the purpose of the association and in conformity with the guidelines on combating money laundering and the financing of organized crime.

162. Article 39 of the Act, on the suspension of the activities of or dissolution of associations, is rarely applied in Algeria. If it is implemented, the association must be notified, the measures taken are temporary in nature and the association has the right to appeal.

163. Associations that were registered under the previous law, namely Act No. 90-31 of 4 December 1990, are required to bring their statutes into line with the provisions of the new law, Act No. 12-06 of 12 January 2012 on associations.

164. This requirement in no way constitutes an obligation for existing associations to reregister. Moreover, the associations concerned have been granted a generous time limit of two years in which to complete this procedure.

Reply to the issues raised in paragraph 26

165. The right to organize is enshrined in article 70 of the Constitution. The exercise of this right is regulated by Act No. 90-14 of 2 June 1990.

166. Algeria has ratified the eight fundamental conventions of the International Labour Organization (ILO), including the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

167. Trade unions are formed through a constitutive general assembly of their founding members, namely workers or employers from the same profession, branch or sector of activity, whatever that sector may be; those members draw up a record of the proceedings and adopt the statutes of the trade union. This declaration of the establishment of a trade union is submitted to the competent authorities in exchange for a receipt, along with a list of the founding members and details of the trade union's objectives, name, mode of organization and territorial jurisdiction and the profession, branch or sector of activity that it covers. The authorities must respond to the founding members within 30 days.

168. Since the aforementioned Act entered into force, 102 unions of workers and employers have been registered, including 65 workers' organizations and the Algerian Workers' General Union.

169. It should be noted that Act No. 90-14 protects workers and trade union representatives; it contains an entire chapter on their protection in the workplace.

170. Act No. 90-14 contains a number of provisions that are designed to protect workers and trade union representatives; any breaches of these provisions are recorded and dealt with by labour inspectors in the course of their work, pursuant to Act No. 90-03 on labour inspections.

171. National legislation provides for arrangements, such as secondment, that enable trade union representatives to perform work on behalf of the trade union for a certain period of time. Union representatives are entitled to spend 10 paid work-hours per month on their work for the trade union.

172. Workers and trade union representatives can assert their rights under labour law by submitting complaints to the labour inspectors and, if need be, to the competent courts. These institutions are free and independent; they perform their duties in accordance with the law.

173. The Autonomous National Union of Workers of the National Electricity and Gas Company (Sonelgaz) is a workers' union that was registered by the Ministry of Labour, Employment and Social Security under reference No. 101 on 30 December 2013.

174. The Ministry of Labour, Employment and Social Security received a report from a bailiff, Mr. Karaoui Mohamed Karaoui, dated 7 October 2017, concerning the voluntary

dissolution of that Union, which had been agreed upon unanimously by the members of the Union's general assembly. This measure, which was taken by the members themselves, is provided for in article 29 of Act No. 90-14.

175. Lastly, with regard to statistics, a total of 57 complaints, including 42 for dismissal, were filed by trade union representatives with the labour inspectorate between 2013 and 2017.

176. The measures taken by employers were mainly dismissal, transfer, demotion, suspension of the employment relationship and disciplinary suspension, against representatives of the following workers' unions:

- Algerian Workers' General Union
- Autonomous National Union of Postal Workers
- National Union of Algerian Farmers

177. In most cases, the reason for dismissal given by the employer was professional misconduct with respect to disciplinary standards within the company (third-degree offences), dereliction of duty and illegal strikes.

178. After the complaints relating to dismissal were filed with the labour inspectorate, 29 formal records were drawn up by the inspectorate, including 11 records of offences that were referred to the courts.

179. The handling of complaints through conciliation resulted in 33 records of non-conciliation and 1 record of conciliation; once those complaints had been processed, 3 out of 42 trade union representatives who had been dismissed were reinstated.

Reply to the issues raised in paragraph 27

180. The right to establish a political party is enshrined in article 52 of the Constitution. The role and status of political parties have now been defined more clearly, as per article 53 of the new Constitution of 7 February 2016.

181. The conditions and procedures for the establishment, organization and functioning of political parties are set forth in Organic Act No. 12-04 of 12 January 2012. This new legislation has resulted in an increase in the number of parties, from 28 in 2012 to 70 today, representing various political stances. Two thirds of these parties — 43 in total — have been authorized under this new Organic Act.

182. The parliamentary opposition has been granted a constitutional status and a series of rights, so that it may perform its role. Article 114 of the Constitution states: "The parliamentary opposition shall have rights that allow it to participate effectively in the work of the parliament and in political life. Each chamber of the parliament shall hold a meeting each month to consider an agenda presented by one or more opposition groups in the legislature."

183. As regards the amendment to the Constitution in 2008 to abolish the limit for holding office and the re-establishment of the limit in 2016, the sovereign people are free to establish the institutions that they deem appropriate and that they have chosen for themselves. As the holders of this right or by delegating this right to their representatives, they may amend the Constitution whenever they feel it is necessary to do so.

184. With respect to civil society participation in projects for the exploitation of natural resources, it is important to note that the soil and subsoil are the property of the Algerian State; therefore, there can be no participation of this kind, unlike in other contexts.